

Farm Credit Administration

§ 622.81

served by personal service or by certified mail with a return receipt to the last known address of the person being served.

§ 622.79 Petition for informal hearing.

(a) *Filing.* To obtain a hearing, the subject individual must file an original and three copies of a petition with the Board within 30 days of being served with the notice or order.

(b) *Content.* The petition shall:

(1) State whether the petitioner is requesting termination or modification of the notice or order;

(2) State with particularity how the petitioner intends to show that his or her continued service to or participation in the conduct of the affairs of the institution would not, or is not likely to, pose a threat to the interests of the institution's shareholders or the investors in Farm Credit System obligations or threaten to impair public confidence in the institution or the Farm Credit System;

(3) Include a request to present oral testimony or witnesses at the hearing, if the petitioner desires to do so. The request should specify the names of the witnesses and a summary of their expected testimony; and

(4) Indicate whether the petitioner desires oral argument or elects to have the matter determined solely on the basis of written submissions.

§ 622.80 Informal hearing.

(a) *Time and place.* Upon receipt of a timely petition for a hearing, the Board shall notify the petitioner of the time and place fixed for the hearing and shall designate one or more Board members or FCA employees to preside ("designated FCA representative"). The hearing shall be scheduled to be held no later than 30 days from the date a petition for hearing is received unless the time is extended at the request of the petitioner. Notice of the hearing shall also be sent to the FCA's Office of General Counsel.

(b) *Appearance.* A petitioner may appear personally or through counsel to submit relevant written materials and oral argument. An attorney is subject to all the requirements and limitations imposed on attorneys in § 622.3 of subpart A. A representative(s) of the

FCA's Office of General Counsel may participate in the hearing to the extent such representative deems appropriate.

(c) *Written material.* Any written material the petitioner wishes to have considered must be submitted to the designated FCA representative and the FCA's Office of General Counsel at least 10 days prior to the date of the hearing.

(d) *Oral testimony.* Oral testimony may be presented only if expressly permitted by the Board in the notice of hearing. The designated FCA representative may ask questions of any witness.

(e) *Transcripts.* Oral testimony, if any, and oral argument shall be recorded. A copy of the transcript shall be filed with the designated FCA representative, who shall have authority to correct the record sua sponte upon notice, or upon the motion of the petitioner or the representative of the FCA's Office of General Counsel. The designated FCA representative shall promptly serve notice upon the petitioner and the FCA's Office of General Counsel of such filing. Such parties shall make arrangements with the person recording the testimony or argument for copies of the transcript.

(f) *Closing of record.* Upon the request of the petitioner or representative of the FCA's Office of General Counsel, the record shall remain open for a period of 5 business days following the hearing, during which time additional submissions for the record may be made. Thereafter, the record shall be closed.

(g) *Rules of evidence and procedure.* Neither the formal rules of evidence nor the adjudicative procedures of the Administrative Procedure Act (5 U.S.C. 554-557) or subpart A of these rules shall apply to the informal hearing ordered under this subpart unless the Board orders that they apply in whole or in part.

§ 622.81 Default.

If the subject individual fails to file a petition for a hearing, or fails to appear at a hearing, either in person or by an attorney, or fails to submit a written argument where oral argument has been waived, the notice shall remain in effect until the information,